DOCUMENT RESUME

ED 158 390 EA 010 799

TITLE	Suggestions for Local School District Compliance with Title IX Rules and Regulations.
INSTITUTION	Arizona State Dept. of Education, Phoenix.
PUB DATE	Dec 75
NOTE	43p.; Prepared by the Title IX Advisory Committee
EDRS PRICE	MF-$0.83 HC-$2.06 Plus Postage.
DESCRIPTORS	Check Lists; Civil Rights Legislation; Elementary Secondary Education; Guidelines; Legal Responsibility; Program Evaluation; *Sex Discrimination
IDENTIFIERS	Arizona; *Education Amendments Act 1972 Title IX

ABSTRACT

This guidebook is designed to help local districts determine how well they comply with the spirit of the Title IX requirements against sex discrimination, which in turn could aid in compliance with the letter of the law. The document's first section presents samples of required antidiscrimination policy statements issued by two districts. The second section concentrates on the mandated self-evaluation process, urging formation of local advisory committees and itemizing the basic requirements of the compliance process. The third and major section breaks down Title IX regulations against discrimination into individual rules and provides a checklist to use to test local compliance. These rules cover admissions, access to course offerings, counseling, treatment of students, employment, and athletics. The document concludes with a substantial supplementary checklist provided in the same format by the Office of Civil Rights for the purpose of providing further clarification of Title IX's intentions. (PGD)

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SUGGESTIONS FOR LOCAL SCHOOL DISTRICT COMPLIANCE WITH TITLE IX RULES AND REGULATIONS

U.S. DEPARTMENT OF HEALTH
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

Recommended by
Title IX Advisory Committee
in conjunction with
Department of Education
Phoenix, Arizona

December, 1975

EA 010 799

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ACKNOWLEDGMENTS

Title IX of the Education Amendment Act of 1972, by prohibiting discrimination on the basis of sex in education programs and activities, affects nearly every public school in Arizona. Since the printing of the rules and regulations that govern Title IX of the Education Amendment Act of 1972 effective July 21, 1975, there has been considerable confusion regarding the application of Title IX in the local schools.

With this concern in mind an advisory committee on Title IX was formed at my request to establish criteria for the implementation of Title IX in the local educational agencies. This booklet is the product of the recommendations made by that advisory committee.

I would like to thank each of the individuals who so graciously devoted their time and talents to the production of these guidelines. Special thanks are directed to the Co-chairpersons of the Arizona Title IX Advisory Committee: M. E. Hatter and William Randall, for their patience, guidance and untiring devotion to completion of the task.

Carolyn Warner

Carolyn Warner, Superintendent
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PREFACE

These guidelines were prepared by the Arizona Title IX Advisory Committee as a recommendation to the State Department of Education for use in providing services to school districts in complying with the provisions of Title IX Rules & Regulations.

The committee has tried to provide those kinds of guidelines which would be of a constructive nature. Very little emphasis has been placed upon legalistic interpretation. Instead, the statements are the committee's interpretations of the official wording of the regulation.

As school districts develop compliance policies and procedures, we are certain that there will be need for clarification. It is the recommendation of the committee that such questions be addressed, in writing, to the State Superintendent of Public Instruction for determination as to whether or not the Department, its legal advisors, or HEW representatives will provide the clarification.

The committee has recommended only one topic be clarified by the Attorney General at this point. That topic deals with whether or not maternity benefits must be included in any health insurance "package" provided at district expense.

Meanwhile, the committee feels that each school district must develop its own policies and procedures, utilizing whatever is feasible from the committee's guidelines.

The committee feels that an attitude of compliance with the intent of the regulations, providing equal opportunities for all children, can lead to positive, constructive improvement in the programs of local school districts.

Mr. M. E. Hatter: Superintendent, Madison Elementary School District #38 - Dr. William Randall: Superintendent, Scottsdale Unified District #48, Co-chairpersons, Arizona Title IX Advisory Committee

I. SUGGESTED COMPLIANCE STATEMENTS AND ACTIONS

The compliance statements listed in this section are merely suggested formats utilized by districts here in Arizona. You should feel free to adopt or modify them to suit your own individual tastes. The important factor is that the district must adopt some statement that suggests it will comply with Title IX.

Subpart A - 86.9

I. Title IX of the Education Amendment Act effective July 21, 197[illegible], requires that each school district or agency shall implement specific and continuing steps to notify students, parents, and employees that it does not discriminate on the basis of sex in the education programs and activities which it operates. Such notification should also be made to applicants for admission and employment, and all unions or professional organizations holding collective bargaining or professional agreements with the recipient. Failure to comply with the requirements of Title IX may result in the withholding of Federal funds.

School districts or agencies, if they have not previously complied, are required to accomplish the following IMMEDIATELY:

1. Establish a policy (required by October 21, 1975) which specifies to applicants for admission or employment, students and parents, employees, employment agencies, union or professional organizations that the school district or agency does not discriminate on the basis of sex in its education programs and activities which it operates and that it intends to comply with the regulations of Title IX. [A.86.9]

2. Publish this policy initially in local newspapers, student newspapers, memoranda, and other regular communication distributed to students, parents and employees. Samples of some statements already adopted by local districts are attached. [A.86.9.2]

3. Designate one employee as its Title IX compliance officer. This employee is responsible for investigating complaints of non-compliance with Title IX. [A.86.8]

4. Notify all students and employees of the name, office address, and telephone number of the designated Title IX compliance officer.

In compliance with the Title IX Regulations set forth, each school district or agency will immediately adopt and publish grievance procedures for prompt and equitable resolution of student and employee complaints. By July 21, 1976, each school district or agency must evaluate its policies and practices as to their compliance with the regulation, modify its policies and practices as necessary for compliance, and take appropriate remedial steps to eliminate the effects of discrimination resulting from these policies and practices.

The success of the implementation of Title IX will be determined by the degree to which local school officials, teachers, and parents move toward familiarity with the requirements of the regulation and the development of constructive activities for implementation of the letter and spirit of the law. The regulation's requirement of institutional self-evaluation provides one tool for such action. Interested individuals and organizations should request copies and observe the modifications of educational policies and practices undertaken to achieve compliance. They should work toward the development of affirmative action plans and efforts in both employment and student program areas. Such affirmative efforts are one method for moving in accordance with and beyond the requirements of the regulation toward the full equality of women and men in our educational system.

OPTION I

STATEMENT OF INTENT TO COMPLY WITH TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

The _____ School District No. _____ states its intent to comply with the spirit of the law and the regulations of Title IX, which prohibits discrimination on the basis of sex in education programs or activities which receive federal funds, extending to employment in and admission to such programs and activities. The District further commits itself to take remedial action, if it is necessary, to eliminate any existing discrimination on the basis of sex or to eliminate the effects of any past discrimination. The Compliance Officer for the _____ School District No. _____ is _____

_____

(list title, office address and phone number.) Questions concerning compliance with Title IX regulations should be referred to _____.

OPTION II

September 30, 1975

WHEREAS; the Congress of the United States passed Title IX of the "Education Amendments of 1972" P.L. 92-318, and

WHEREAS; the Secretary of the U. S. Department of Health, Education, and Welfare has published a regulation dated June 4, 1975 under which the law will be administered. The effective date of this regulation being July 21, 1975, and

WHEREAS; Section 86.9 of such regulation directs that students and parents of elementary and secondary school students in this district, and employees of this school district be notified of the fact that this school district does not discriminate on the basis of sex in the matter of educational programs or employment of personnel, and

WHEREAS; such regulation requires immediate action to start our examination and evaluation of current policies and practices of pertinent school operation and to make such changes as are necessary in an orderly planned manner.

FURTHER; be it known that we intend to comply expeditiously with Title IX of the "Education Amendment of 1972" and the regulation implementing such law.

NOW THEREFORE; due to the necessity of there being a uniform interpretation of the regulation in this school district, _____ whose address is _____(list school address and phone number), is designated as representing the board in this matter. The Compliance Officer(s) will report to the board progress made in this regard. The Compliance Officer or such personnel as the officer directs are to immediately start the necessary examination and evaluation, as well as drafting plans for full compliance. Planning should be to have all changes ready to be in place for operation by July 1, 1976.

FINALLY; it is directed that this resolution be disseminated to all parents, contractors, employees, pupils, and the local news media as required by 86.9 of the regulation.

The options listed above are samples of compliance notices already issued by some districts in Arizona.

II. SUGGESTED PROCEDURES FOR LOCAL SCHOOL DISTRICTS IN PLANNING COMPLIANCE WITH TITLE IX RULES AND REGULATIONS

In order to accomplish compliance with Title IX Rules & Regulations in the very short period of time allowed, the committee recommends that each school district develop a specific plan for compliance. We believe that each district's plan should be committed to writing, approved by the Board of Education/Board of Trustees, and posted in each administrative and school office.

School districts in accordance with a preliminary recommendation made to the State Department should already have developed, published, and disseminated a statement of intent to comply, and named an employee as its Title IX compliance officer.

The following suggestions are meant to pick up the planning from that point. The suggested steps in the procedure (which are expanded on the following pages) are as follows:

A. Advisory Committee for Title IX Compliance

B. Planning for Self-Evaluation

   WHAT: The instrument
   WHEN: Time schedule and calendar
   WHO: Establishing responsibilities
   WHERE: Curriculum area, school, or district

C. Making Judgments on Self-Evaluation

D. Making Changes to Achieve Compliance with Title IX Regulations

   WHAT: Policies, procedures, curriculum, facilties, budget, etc.
   WHEN: Time scheduled calendar
   WHERE: Facilities, etc.

E. Development of Grievance Procedures

F. Structure for Communicating to Parents, Students, Employees, and Board of Education/Board of Trustees.

G. Evaluation of Compliance

II. SUGGESTED PROCEDURES FOR LOCAL SCHOOL DISTRICTS IN PLANNING COMPLIANCE WITH TITLE IX RULES AND REGULATIONS (Continued)

A. ADVISORY COMMITTEE FOR TITLE IX COMPLIANCE

The regulation requires districts to appoint a compliance officer. The committee feels that districts should seriously consider the appointment of an advisory committee to the compliance officer in order to provide broadened perspectives (both sexes, various subject matter areas, varying categories of personnel, etc.). This advisory committee would assist in developing the recommended written compliance plan.

B. PLANNING FOR SELF-EVALUATION

This planning should incorporate the instrument to be used, either using the Task Force material enclosed or materials developed by the district's advisory committee. Planning should also include a time schedule and calendar for self-evaluation, the establishment of responsibilities of self-evaluation (who does it), and how the evaluation is to be done (for example by total districts, by curriculum area, by school, etc.)

C. MAKING JUDGMENTS ON SELF-EVALUATION

When the self-evaluation has been filed (for example with the compliance officer or local advisory committee) decisions must be made and recommendations developed for the local Board of Education/Board of Trustees concerning what needs to be modified in the district's policies, procedures, curriculum, or practices.

D. MAKING CHANGES FOR ACHIEVING COMPLIANCE WITH TITLE IX

The committee recommends that the Board of Education/Board of Trustees make decisions regarding recommendations for modifications, and then give direction relative to what modifications are to be made, when they are to be made, who is to make them, and what facilities and budget modifications must be made in support of compliance, transition plans, etc.

E. DEVELOPMENT OF GRIEVANCE PROCEDURES

Subpart A.86.8 of the Rules and Regulations indicates "A recipient shall adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints alleging any action which would be prohibited by this part."

The committee suggests that provisions also be made, particularly in elementary districts, for receiving parental complaints (so that parents may act for young children).

II. SUGGESTED PROCEDURES FOR LOCAL SCHOOL DISTRICTS IN PLANNING COMPLIANCE WITH TITLE IX RULES AND REGULATIONS (Continued)

F. STRUCTURE FOR COMMUNICATING TO PARENTS, STUDENTS, EMPLOYEES, BOARD OF EDUCATION/BOARD OF TRUSTEES

As indicated above, this plan of communication would include the original official notice of intent and posted copies of the plan for compliance.

When the plan for compliance is completed, we suggest that districts notify all residents and employees that the written plan is available for study at a given location in each school.

We suggest that as progress reports are made to the Board, and when the final compliance is accomplished, bulletins explaining the progress be disseminated to all residents and employees. We suggest periodic follow-up bulletins be issued, especially at the beginning of each school year.

G. EVALUATION OF COMPLIANCE

The committee recommends that each school district develop an evaluation plan so that provisions are made for evaluating progress prior to July 21, 1975, as well as evaluating efforts following that date. Each district should feel free to utilize any or all portions of this document that suits their needs. We urge districts to develop supplemental questions that might reflect situations unique to their own experience.

We suggest that this evaluation plan include a report stating that:

Criteria of objectives established in the plan have been accomplished.

Employees' judgments about the quality of the criteria and the effectiveness of the criteria accomplishments.

Parental and/or student evaluation of quality and effectiveness of criteria.

Judgments relative to indications provided by the above assessments.

Recommendations for change in the compliance plan, policies, procedures, curriculum, activities, etc.

Finally, the Task Force suggests that you communicate the results in writing to interested parties and save copies of all materials for three years.

III. SUGGESTED GUIDELINES FOR SELF-EVALUATION

A. DIRECTIONS FOR UTILIZING SELF-EVALUATION FORMAT

The following pages are the recommended self-evaluation procedures produced by the Title IX Advisory Committee. Their recommendations are grouped around six major areas: Athletics, Employment, Treatment of Students, Counseling, Access to Course Offerings, and Admission to Schools. These sections encapsulate the Title IX Rules and Regulations. Two other sections deal with guidelines for school districts, the section on exemptions and the section dealing with compliance statements.

The format for the six areas is as follows:

1. Each section contains a general statement of the rule affecting the area.
2. Each section lists the Advisory Committee's recommendation.
3. Each section details specific criteria.

The criteria to determine if your district is in compliance with Title IX rules and regulations is presented in a self-evaluatory questionnaire. Each section contains a number of questions that should be answered concerning your present actions.

If you answer "YES" to all questions, you are in compliance with the regulations as the Advisory Committee interprets them. Be prepared with documentation to support your conclusions -- including all Board Policies and Procedures.

Any "NO" answer to these questions should suggest to you that you need to examine that area further. Be aware that a complaint in this area might require the local district to provide justification for their position to the Office of Civil Rights.

Space has been provided under each question for an evaluator to cite comments, questions, or concerns about each specific question.

B. EXEMPTIONS Title IX Subpart B [86.14]

Although virtually every college, university, elementary, preschool, and secondary school is covered by some portion of Title IX, there are some exemptions to the rules. Military schools and religious schools are exempt to the extent that the provisions of Title IX would be inconsistent with basic religious tenets. The local district should contact its legal staff or the Office of Civil Rights concerning clubs and organizations not specifically mentioned in the regulations.

Membership practices of certain outside organizations. [86.14]

(1) Social fraternities and sororities. This part does not apply to the membership practices of social fraternities and sororities which are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954, the active membership of which consists primarily of students in attendance at institutions of higher education.

(2) YMCA, YWCA, Girl Scouts, Boy Scouts, and Camp Fire Girls. This part does not apply to the membership practices of the Young Men's Christian Association, the Young Women's Christian Association, the Girl Scouts, the Boy Scouts, and Camp Fire Girls.

(3) Voluntary youth service organizations. This part does not apply to the membership practices of voluntary youth service organizations which are exempt from taxation under Section 501(a) of the Internal Revenue Code of 1954 and the membership of which has been traditionally limited to members of one sex and principally to persons less than nineteen years of age.

C. ADMISSIONS Title IX, Subpart C [86.21]

No person shall, on the basis of sex, be denied admission or be subject to discrimination in admission by any school district.

The Task Force recommends that you examine your present admissions policies and procedures.

	ANSWER YES	NO
1. Do all schools in your district admit students without regard to sex?	___	___
2. Do all schools in your district place students in programs without regard to sex?	___	___
3. Do you admit students without regard to parental or marital status?	___	___

D. ACCESS TO COURSE OFFERINGS Title IX, Subpart D [86.34]

A recipient shall not provide any course or otherwise carry out any of its education programs or activities separately on the basis of sex, or require or refuse participation therein to any of its students on such basis, including health, physical education, industry, business, vocational, technical, home economics, music, and adult education courses.

The Task Force recommends that you examine your current practices concerning access to course offerings.

	ANSWER YES	NO
1. Are all classes open to all students, regardless of sex or present career opportunities? [86.34]	___	___
2. Is a balance of both sexes maintained when assigning students to required classes? [86.34]	___	___
3. Are all students and parents informed that elective classes are open to all students who have proper prerequisites? [86.34]	___	___
4. Are prerequisites based on necessary conditions and not created to exclude either sex? [86.34]	___	___
5. Have you made certain that since the passing of the Title IX amendment, no new prerequisites have been placed on courses which in effect maintain the discrimination against either sex? [86.34]	___	___
6. Are the requirements and activities equal and the same for all students in all classes? [86.34]	___	___
7. If the requirements and activities are not equal and the same for all students, is there documented justification?	___	___

D. ACCESS TO COURSE OFFERINGS Title IX, Subpart D [86.34] continued

	ANSWER YES	NO
8. Are programs and course offerings described in a non-discriminatory manner?	___	___
9. Do individual courses effectively accommodate the interests and abilities of both sexes?	___	___
10. Have you developed proficiency tests that utilize non-discriminatory and objective criteria?	___	___
11. Are the facilities that are provided for individual course offerings made available equally or comparably to both sexes?	___	___
12. Are students encouraged to learn to play specific instruments in a non-discriminatory manner? (e.g., not all boys play trumpets or all girls play clarinets)	___	___
13. Are members of performing vocal groups selected on the basis of vocal range or quality rather than sex?	___	___
14. Is there an opportunity for both sexes to understand the growth and development of the human body?	___	___
15. Is there opportunity for persons of both sexes to enroll in courses such as Health, Physical Education, Industrial, Business, Vocational, Technical, Home Ecomomics, Music, and Adult Education Courses?	___	___

E. COUNSELING AND USE OF APPRAISAL AND COUNSELING MATERIALS
Title IX, Subpart D [86.36]

School districts may not discriminate against any person on the basis of sex in the counseling or guidance of students or applicants.

A school district cannot:

1. Use tests and informational materials that are different for each sex.
2. Use tests and informational materials that have sexual bias.
3. Use tests that result in the placement of a disproportionate number of one sex in a course or class.

If a class has a disproportionate number of one sex, the school district must make certain that this is not a result of discrimination due to counseling or the use of sexually biased appraisal materials.

The Task Force recommends that you examine your practices in counseling and use of appraisal and counseling materials.

[86.36]

	ANSWER YES	NO
1. Are those who perform guidance and counseling duties non-discriminatory on basis of sex?	___	___
2. Are appraisal instruments for students non-discriminatory on the basis of sex?	___	___
3. Is information provided to students in a non-discriminatory manner?	___	___
5. Are your course placement activities for students done in a non-discriminatory manner? (e.g., not all girls take home economics - not all boys take industrial arts)	___	___
6. Do you conduct job placement activities for students in a non-discriminatory manner?	___	___
7. Do you conduct post high school educational placement activities for students in a non-discriminatory manner?	___	___
8. Is a disproportionate number of one sex enrolled in any class or program justifiable?	___	___

E. COUNSELING AND USE OF APPRAISAL AND COUNSELING MATERIALS
Title IX, Subpart D [86.36] continued

Clarification of Terms

A full service counseling program consists of four major service areas:

1. APPRAISAL: A means of gathering information about the student. This includes tests of ability, interest, aptitude, intelligence, and personality.

2. INFORMATION: A means of providing information to the student. This is information about the student, as well as information about things in which the student is interested, such as classes, jobs, schools, colleges, test results, etc.

3. COUNSELING: This is the process by which appraisal and information are synthesized through the interaction between the counselor and the student. Counseling is also designed to help the student develop solutions to personal problems.

4. PLACEMENT: As a result of appraisal, information, and counseling, students are equipped to make decisions about the course selection, their job selections, and/or post high school education.

F. TREATMENT OF STUDENTS Title IX, Subpart D, (continued)

No student shall, on the basis of sex, be treated differently from another student in the provision of educational opportunities such as: programs and activities (curricular and extra-curricular), benefits and services, aid and employment, and in the establishment of the rules and regulations, and the enforcement of discipline.

The Task Force recommends that you examine your policies and procedures concerning treatment of students:

	ANSWER YES	ANSWER NO
1. Do you deny aid or significant assistance (sponsors or facilities) to organizations that discriminate on the basis of sex? [86.31]	___	___
2. Do you deny the use of your facilities on a rent free basis to organizations that discriminate on the basis of sex? [86.31]	___	___
3. Have you analyzed your procedures and practices for granting awards, scholarships, and exchange programs to ensure they are not discriminatory on the basis of sex? [86.31]	___	___
4. If you offer scholarships from outside agencies, do you balance these scholarships by offering an equivalent number for both sexes? [86.37]	___	___
5. Is your district non-discriminatory on the basis of sex if it provides or allows outside agencies to provide full coverage for students in the areas of medical, accident, hospital, or life insurance? [86.39]	___	___
6. Are employers of students in school sponsored work programs non-discriminatory on the basis of sex? [86.38]	___	___
7. Are separate but comparable facilities provided for both sexes for showers, toilets, and locker rooms? [86.33]	___	___
8. Do rules and regulations regarding appropriate dress and appearance apply equally to both sexes? [86.31]	___	___

F. TREATMENT OF STUDENTS Title IX, Subpart D (continued)

	ANSWER YES	NO
9. Do disciplinary actions resulting from infractions of rules and regulations apply equally to both sexes? [86.31]	___	___
10. Do you provide an equal educational opportunity for married students regardless of gender? [86.31]	___	___
11. Are rules concerning a student's actual or potential parental or marital status non-discriminatory on the basis of sex? [86.40]	___	___
12. If the district operates a special program for pregnant students, is this program voluntary and comparable to the regular program? [86.40]	___	___
13. Do you treat student's pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom in the same manner as any other temporary disability of a student? [86.40]	___	___
14. At all levels, do all teachers group students in cafeteria lines, seating arrangements, play area assignments, bus seats, etc. using criteria other than sex?	___	___

G. ATHLETICS Title IX, Subpart D (continued)

There are two major substantive provisions of the regulation which define the basic responsibility of educational institutions to provide equal opportunities to members of both sexes interested in participating in the school's athletic programs.

Section 86.41 prohibits discrimination on the basis of sex in the operation of any interscholastic intercollegiate, club or intramural athletic program offered by an educational institution. Section 86.37 (c) sets forth requirements for ensuring equal opportunity in the provision of athletic scholarships.

The Task Force recommends that you examine your district's policies concerning athletics and athletic scholarships.

	ANSWER YES	NO
1. Have you analyzed the "interests and abilities" of all the male and female students at your school? [86.41]	___	___
2. Have you used a student survey to provide information for determining student interest?	___	___
3. Do the methods used for equating abilities of both male and female students take into consideration inherent physiological differences such as strength, speed, agility, flexibility, size?	___	___
4. Have you provided for equal opportunity of the sexes in the selection of sports and levels of competition?	___	___
5. Is there equal opportunity for both sexes in the selection of sports and levels of competition?	___	___

a. How many varsity teams? Boys_____, Girls_____?

b. How many JV teams? Boys_____, Girls_____?

c. How many intramural teams? Boys_____, Girls_____?

d. How many Frosh teams? Boys_____, Girls_____?

e. What is the total number of sports offered for each sex? Boys_____, Girls_____?

G. ATHLETICS Title IX, Subpart D (continued)

	ANSWER YES	NO
f. What are the total numbers of teams? Boys_____, Girls_____?		
g. What are the numbers of matches or games within each team? Boys_____, Girls_____?		
h. What is the length and time of season for each sport? Boys_____, Girls_____?		
7. Is there equal opportunity for both sexes in the provision of supplies and equipment?	___	___
8. Is there sufficient quality and quantity of game and practice supplies, facilities, and equipment for each sex?	___	___
9. Are budget expenditures provided in a non-discriminatory manner for both sexes?	___	___
10. Are equal per diem expenses for both sexes provided for all sports?	___	___
11. Are housing and dining facilities and services comparable for both boys' and girls' sports?	___	___
12. Are the number of trips and means of transportation provided in a non-discriminatory manner for both sexes?	___	___
13. Has equal opportunity been provided regarding scheduling for both boys' and girls' sports?	___	___
a. Is the length of practice time afforded the same?	___	___
b. Are the practices seasons the same lengths for comparable sports for both boys and girls?	___	___
c. Are the length and time of game seasons equal in comparable sports for boys and girls?	___	___
d. Are practices schedules at equally attractive times in equally desirable areas for both boys' and girls' teams?	___	___

G. ATHLETICS Title IX, Subpart D (continued)

	ANSWER YES	NO
14. Are boys' and girls' teams coached and cared for by equally compensated and qualified personnel?	___	___
a. Are comparable numbers of male and female coaches hired for both sexes?	___	___
b. Does an equitable student/coach ratio exist in the same sports for both sexes?	___	___
c. Are competent trainers and medical services equally available to both sexes?	___	___
d. Is personnel to care for and issue equipment and supplies available to both sexes?	___	___
e. Is a comparable effort expended to hire coaches of comparable ability and quality for both sexes?	___	___
15. Are practice and competition facilities equally available for both sexes?	___	___
a. Is the size of the field area comparable for both sexes based on equal numbers of students participating?	___	___
b. Are comparable locker spaces available to both sexes?	___	___
c. Are shower facilities comparable for both sexes?	___	___
d. Is facility time for usage for practice and games comparable for both sexes?	___	___
16. Is comparable publicity and recognition given to both sexes?	___	___
a. Have institutional program press releases been issued equally for both sexes?	___	___
b. Is school newspaper coverage equal for both sexes?	___	___
c. Are awards presented to both boys' and girls' teams equal in types, monetary value, and number?	___	___
d. Are both boys and girls equally recognized in school sponsored rewards such as dinners, assemblies?	___	___
17. Are scholarships or grants-in-aid that are available to both sexes comparable in value and availability?	___	___

CLARIFICATION

1. What does the term "athletics" mean?

   The term "athletics" encompasses extracurricular sports which are a part of interscholastic, intercollegiate, club, or intramural programs. "Athletics" does not include the physical education curriculum.

2. Can a school be exempt from Title IX if its athletic conference or state association has rules or regulations in conflict with Title IX?

   No, a school cannot be exempted. Title IX preempts all state or local laws, or other local regulatory agency requirements.

3. Are there any exemptions?

   No, all schools must comply fully with the regulations with respect to athletics. Elementary schools have one year (July 21, 1976) in which to complete compliance, secondary, and post-secondary schools have three years to complete compliance. (July 21, 1978) Even if the athletic department itself receives no federal aid the courts have consistently considered athletics sponsored by an educational institution to be an integral part of the institution's education program and subject to all Title IX regulations.

4. May there be separate teams for males and females?

   a. When selection is based on competitive skill or the activity involved is a contact sport* separate teams may be provided, or a single team open to both sexes may be provided. If by opening a team to both sexes in a contact sport the interests and abilities of both sexes are not accommodated (see 86.41 [c] [1]), separate teams in that sport will be required. For example, an institution would not be effectively accommodating the interests and abilities of women if it abolished all its women's teams and opened up its men's team to women, but only a few women were able to qualify for the men's teams.

      *Contact sports are defined as football, basketball, boxing, wrestling, rugby, ice hockey, and any other sport the purpose or major activity of which involves bodily contact.

5. May a school preclude males or females from participating on teams for the opposite sex?

   A school may preclude men or women from participating on teams of the opposite sex if their athletic opportunities have not been limited in the past regardless of whether the sport is contact or non-contact. [Example: If both boys' and girls' tennis teams exist at the school one may not try out for the team of the opposite sex. Boys may not try out for the girls badminton team if the boys have not been limited in opportunity overall even if a badminton team is not currently offered for them.]

G. ATHLETICS Title IX, Subpart D (continued)

CLARIFICATION (continued)

If sufficient interest is generated to form a separate team it should be done and competition should be against members of the same sex.

An alternate solution however may be a boys' team and a girls' team competing in separate divisions with separate scores. For mixed team results, scores of perhaps the top boys and top girls may be used.

(Example: Intercollegiate archery as it now exists.)

(Example: A swimming or track meet could be run alternating girls and boys heats.)

(Example: A tennis team could be formed of girls singles, boys singles, and mixed doubles [same for badminton].)

This must not be construed to limit participation by either sex to less than the number of participants existing prior to the formation of the additional team.

(Example: If there were six of each sex on the previous team there must now be six of each sex on the respective new teams.)

H. EMPLOYMENT Title IX, Subpart E

No person shall on the basis of sex be excluded from participation in, be denied the benefit of, or be subjected to discrimination in employment or recruitment consideration, or selection therefore, whether full-time or part-time, under any educational program or activity operated by a local district.

The task force recommends that you examine present employment provisions, including relationships with employment and referral agencies, labor unions, and organizations with which you subcontract.

	ANSWER YES	NO
1. Does your district have open recruitment, advertising, and encourage application for employment regardless of sex? [86.51]	___	___
2. Does your district hire, upgrade, consider for tenure, demote, transfer, lay off, terminate, apply neoptism policies, permit return from lay off, and rehire without discrimination to either sex? [86.51]	___	___
3. Does your district determine rate of pay, overtime, extra duty, or any other form of compensation without discrimination? [86.51]	___	___
4. Does your district create job assignments, classification, and structure, including position descriptions, lines of progression, and seniority lists, without discrimination? [86.51]	___	___
5. Are the terms of any negotiated agreement in compliance with Title IX? [86.51]	___	___
6. Does your district grant leaves of absence (including returns from leaves), for pregnancy, childbirth, false pregnancy, termination of pregnancy, and leave for persons of either sex to care for children or dependents? [86.51]	___	___
7. Does your district make fringe benefits (whether or not administered by the school district) available by virtue of employment to both sexes? [86.51]	___	___

H. EMPLOYMENT Title IX, Subpart E (continued)

	ANSWER YES	NO
8. Does your district have non-discrimination policies and practices in financial support for training, including apprenticeships, professional meetings, conferences, and other related activities, selection for tuition assistance, selection for sabbatical, and leaves of absence? [86.51]	___	___
9. Have you examined employee/employer sponsored activities, including social or recreational programs to determine that both sexes are afforded access? [86.51]	___	___
10. Does your district administer discriminatory tests or other criterion for employment? [86.52]	___	___
11. If applicable, does your district, after a thorough job analysis presently recruit members of the sex previously discriminated against so as to overcome the effect of such past or present discrimination? [86.53]	___	___
12. Does your district treat employee pregnancies in a non-discriminatory manner? [86.57b]	___	___
13. Does your district allow the pregnant employee to elect use of her sick leave for maternity leave? [86.57c]	___	___
14. If the pregnant employee has insufficient allowable sick leave accumulated for what is needed for maternity-related absence (in the opinion of her physician), does your district have a policy of extending leave of absence without pay for a reasonable length of time not to exceed one year, (as determined by her physician)? [86.57d]	___	___
15. Upon return from maternity-related leave (whether with or without pay) does your district have a policy of reinstating the employee to the same employment status she had at the beginning of the leave including any improvements in status adopted as policy during her absence? [86.57d]	___	___
16. Has your district removed from employment applications questions relating to marital status of the applicants? [86.60a]	___	___

H. EMPLOYMENT Title IX, Subpart E (continued)

	ANSWER YES	NO
17. Does your district require equal information from all applicants concerning classification by sex? [86.60b]	___	___
18. Does your district employ students in a non-discriminatory manner? [86.38]	___	___

CLARIFICATIONS

If your district offers employee health, medical, or hospital insurance plans that have NOT included coverage for pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom, including any temporary disability or physical complication resulting from any of the aforementioned, seek advice from your insurance consultant concerning the most recent interpretation of the effects of Title IX on such coverage. The State Department is also seeking further clarification. [86.56]

IV. ASSISTANCE IN COMPLIANCE

REGIONAL WORKSHOPS

The State Department of Education will offer regional workshops throughout the State at which explanations of this document will be made. Technical assistance will be provided by members of the Task Force and Curriculum Advisors.

If your district is interested in arranging for such a workshop, please contact Dr. Gary Emanuel, 1535 West Jefferson, Phoenix. The phone number is 271-4727.

ADVISORY COMMITTEE

The advisory committee members have indicated their willingness to serve, upon request through the State Superintendent, as an advisory group to local districts in the development of local districts compliance plans.

CURRICULUM MODIFICATION ASSISTANCE

Upon written request to the State Superintendent of Public Instruction, the State Department of Education will provide cadre consultants, regional workshops, extension classes, or other services to assist local districts in the development of curriculum modifications (e.g., a regional workshop at which home economics teachers may make program modifications to provide a co-educational curriculum).

V

Additional Suggestions

From

Office Of

Civil Rights

Region IX, San Francisco
760 Market Street, Room 700
San Francisco, CA 94102
Ms. Helen Walsh
Equal Opportunity Specialist

Thank you for the opportunity you have provided us to comment on the suggestions regarding Title IX Self-Evaluation that your State Title IX Advisory Committee has prepared for Arizona school districts.

In reviewing this document, we have identified five (5) major points or issues where we feel it would be helpful to have additional clarification provided.

Mr. J. E. Palomino
Ms. Helen Walsh
Office of Civil Rights
Region IX, San Francisco

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS

ACCESS TO COURSE OFFERINGS Title IX, Subpart D, Section 86.34 (a) (b) (d).

Physical Education

I. Because of the many questions that are often asked about implementing Title IX in physical education programs we feel it would be most beneficial if a separate section of the self-evaluation guidelines dealt specifically with physical education. This section would be distinct from those dealing with access to course offerings in general and athletic programs.

Specifically we would suggest that at least four questions be included:

	ANSWER YES	NO
1. Is enrollment in all physical education (even those classes that teach contact sports) open regardless of the sex of the student?	___	___
2. Is the physical education program operated by one co-ed department (e.g. just like the math department)?	___	___
3. If the use of a single standard of measuring skill or progress in a physical education class has an adverse impact on one sex are other standards used which do not have this affect?	___	___
4. If students are grouped by ability within a physical education class in every instance are determinations of ability made individual by individual, using objective non-discriminatory standards and not by using group oriented classifications like height and weight?	___	___

ACCESS TO COURSE OFFERINGS Title IX, Subpart D, Section 86.34 (a) (b) (d).

Physical Education (continued)

A. Basic Principles

1. Physical education classes may not be conducted separately on the basis of sex, nor may participation in physical education programs be required or refused on the basis of sex.

2. Students may be grouped by ability, as assessed by objective standards, within P.E. classes or activities. Such groupings within a class may result in groups composed of one or predominantly one sex.

3. Students may be separated by sex within P.E. classes for participation in wrestling, boxing, rugby, ice hockey, football and other sports the purpose or major activity of which involves bodily contact. Baseball and softball do not fall within the above definition. For a sport not specified here, obtain as full a description as possible indicating the extent to which its purpose or major activity involves bodily contact; submit the information to headquarters and request a decision.

4. Where use of a single standard for measuring skill or progress in a physical education class has an adverse impact on members of one sex, a different standard or standards which do not have such an effect must be used. For example, if the minimum for passing a 9th grade physical fitness test is to be able to broad jump two meters and most of the boys meet or surpass this standard while most of the girls do not, either separate standards must be adopted for boys and girls or a single standard measuring individual improvement must be used instead.

5. Recipients may have an adjustment period to comply fully with the above requirements. Elementary schools may have up to one year; secondary schools may have up to three years. This is not an automatic waiting period; recipients must comply expeditiously as possible and may only take advantage of the adjustment period if they can show real barriers to immediate compliance. Active steps toward full compliance must be taken during the adjustment period. The adjustment period may be employed for the following:

    a. staff training and planning;

    b. curriculum revision;

    c. rescheduling;

    d. renovation of facilities or construction of additional facilities.

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

TREATMENT OF STUDENTS Title IX, Subpart D

II. We feel that there is often a need for additional clarification regarding extracurricular clubs and activities whether sponsored by the school or outside organizations. We offer the following for your guidance in this matter.

a. All clubs and activities whose primary sponsor is the school or student body association are covered by Title IX and cannot be sex-segregated or sex-exclusive. Examples of such applicable clubs and activities include, but are not limited to, cheerleaders, pep squad, drill team, debate club, thespian club, honor society, G.A.A., letter clubs, and homemaker clubs. (Please note that membership in the G.A.A. as a club should not be confused with the bona fide girls' interscholastic or intramural athletic program.)

b. Clubs and activities whose primary sponsor is an outside organization but that operate on campus are subject to Title IX if they are academic, professional, vocational, honorary or social (i.e. junior high and senior high fraternities and sororities). These clubs may not be sex-segregated or sex-exclusive. If the outside organization wishes to continue to operate them as sex-segregated or sex-exclusive they cannot continue to receive significant assistance from schools.

Therefore, a school could not advertise or post bulletins about meetings for these clubs or activities, participate or help in the selection process by providing names of potential members, provide official faculty or school sponsorship or in any way give official support by providing recognition in yearbooks, at awards ceremonies, etc. Of course this in no way abridges the rights of individuals from joining in or helping with these clubs or activities in their private lives.

This aspect of the regulations applies to such sex-segregated professional-academic oriented activities as Girls' State and Boys' State.

c. Other outside clubs and activities that are sex-segregated or sex-exclusive but whose general operations are divorced from the school may receive insignificant amounts of assistance from the school when, for example, the school is acting in a capacity of community center. Thus, to be illustrative, if the National Organization of Women or the Junior Chamber of Commerce wished to use occasionally an empty classroom to conduct macrame classes for their membership and use of these classrooms did not create any scheduling or other problems for the school, this type of insignificant assistance may continue.

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

TREATMENT OF STUDENTS Title IX, Subpart D continued

d. Finally, sex-segregated or sex-exclusive clubs and activities sponsored by outside organizations that operate on campus are exempt if they are voluntary youth service organizations that are tax-exempt, whose membership is principally under nineteen years of age and is traditionally single sex and whose activities are service-oriented. Thus, key clubs whose primary function is to provide services to the school and who meet all of the other criteria listed above would be exempt from Title IX coverage.

Also exempt are five named organizations; the Boy Scouts of America, Girl Scouts of America, YMCA, YWCA, and Camp Fire Girls.

	ANSWER YES	NO
1. Do you refuse to give significant assistance to sex segregated organizations?	___	___
2. Do you refuse to post notices from sex segregated organizations?	___	___
3. Do you refuse to aid in the selection process of top boys and girls for sex segregated organizations?	___	___
4. Are all of your awards free of sex labeling?	___	___

Examples of sex labeled awards would include:
1. Girl most likely to succeed
2. Outstanding Boy

For such awards as Homecoming Queen or King, the overall opportunities for males and females to be selected should be compatible.

5. Have you had any employers of students in school sponsored work programs sign a statement that they do not discriminate on the basis of sex?	___	___
6. Do you refuse to refer students to jobs where the employer specifically requests for help by designating the sex of the applicant?	___	___

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

COMPLIANCE STATEMENTS Title IX, Subpart A (86.9)

III. We feel that it would be helpful to include also a checklist on the procedural requirements of Title IX that you have outlined in the first three pages of your guidelines.

	ANSWER YES	NO
1. Have you appointed a person(s) responsible for coordination of compliance with Title IX including investigating Title IX complaints?	___	___
2. Have you adopted and published grievance procedures for all employees and students who have complaints under Title IX?	___	___
3. Have you adopted a policy of compliance with Title IX?	___	___
4. Have you published the name(s) of any person(s) responsible for coordination of compliance with Title IX?	___	___
5. Have you sent individual notices to all students listing the name(s) of any person(s) responsible for coordination of compliance with Title IX?	___	___
6. Have you notified all employment and referral agencies and bargaining units of your intent to comply with Title IX and the name(s) of any person(s) responsible for coordination of compliance with Title IX?	___	___
7. Have you put a notice (or arranged to at next printing if soon) in all catalogues of your intent to comply with Title IX and the name(s) of a person(s) responsible for coordination of compliance with Title IX?	___	___
8. Have you included a statement on all application blanks that you do not discriminate on the basis of sex?	___	___

COUNSELING AND USE OF APPRAISAL AND COUNSELING MATERIALS
Title IX, Subpart D, (86.36)

IV. As you note in the counseling section of your guidelines, 86.36 of the regulations requires that if a school district has a disproportionate number of one sex in any of its classes it must determine that this is not the result of discrimination.

In addition to asking if classes with a disproportionate representation of one sex are justifiable (question 8), we feel that it would be very helpful if specific steps were outlined on how to determine if sexually identifiable classes could be the result of subtle or unintentional discrimination.

For those classes where enrollment is predominantly one sex, a checklist could be added to include the following types of questions:

	ANSWER YES	ANSWER NO
1. Have course descriptions and course labels been examined to determine that they are gender non-specific?	___	___
2. Have students and parents been notified that these courses are open to all students, regardless of their sex?	___	___
3. Have counselors and teachers been notified that these classes are open to all regardless of sex?	___	___
4. Have efforts been made to ascertain that counselors and teachers have not been discouraging students from enrolling in certain courses because of possible limited future job opportunities for members of their sex?	___	___
5. Have prerequisites been examined to insure that no students are denied entrance to a class because they lack the necessary prerequisites <u>if</u> they have previously been denied the opportunity to gain those prerequisites because of their sex?	___	___

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

COUNSELING AND USE OF APPRAISAL AND COUNSELING MATERIALS
Title IX, Subpart D (86.36) continued

	ANSWER YES	ANSWER NO
6. Do you make certain that no students are discouraged from taking certain courses because of current discriminatory job practices by employers?	___	___
7. At Career Day Programs are men and women sought who can exemplify traditional and non-traditional sex-role occupations?	___	___
8. Do all visual materials used by counselors depict men and women in traditional and non-traditional sex-role occupations?	___	___

Examples of the non-traditional sex-role occupations would include female police and truck drivers or male nurses and secretaries.

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

ACCESS TO COURSE OFFERINGS Title IX, Subpart D (86.34)

V. Because the concept of what specifically constitutes sex discrimination is at times difficult to grasp, we suggest that, as often as possible, concrete examples of discriminatory actions and possible non-discriminatory alternative actions be provided. When asking if course offerings are non-discriminatory the example of using gender non-specific descriptions and labels like basic auto mechanics instead of powderpuff auto mechanics could be included.

	ANSWER YES	NO
1. If participation in some classes was previously limited or restricted by sex, have you identified those who were denied access to such classes and given them the opportunity to enroll in those classes?	___	___
2. If participation in some classes was previously limited or restricted by sex, have you provided any remedial help that a student may need to catch up with students who were not restricted?	___	___
3. Have you reviewed your listing of programs and course offerings to ensure that you have not listed any courses with gender modifers?	___	___

Some examples of Course Titles that should NOT be used are:

1. Bachelor (or Bachelorette) Survival
2. Auto Mechanics for Girls
3. Boys Chorus
4. Girls Physical Education
5. Girls Home Economics
6. Boy's R.O.T.C.

4. If you have any classes where enrollment is predominately one sex have you examined your course descriptions and counseling practices to see that you have not labeled a class by sex?	___	___
5. Have you notified all students that all classes are open to all students regardless of their sex?	___	___

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

EMPLOYMENT Title IX, Subpart E

In addition to these five points, we note that you desire further clarification on the effects of Title IX on the provision of fringe benefits such as medical insurance for employees. We offer the following for your guidance:

> Section 86.57(c) require that pregnancy be treated as a temporary disability "for all job related purposes including commencement, duration and extension of leave, payment of disability income, accrual of seniority and any other benefit or service, and re-instatement and under any fringe benefit offered to employees by virtue of employment".
>
> A health plan is considered a fringe benefit if it is operated, sponsored or supported by the school district or made available to district employees by an outside company through the cooperation of the school district. If a health plan does not treat pregnancy as a temporary disability a school district must discontinue acting as an agent for that discriminatory company and find a company that does not differentiate between pregnancy and other temporary disabilities in the provision of benefits.

	ANSWER YES	NO
1. Do all health insurance policies treat pregnancy as any other temporary disability?	___	___

V. SUGGESTIONS FROM OFFICE OF CIVIL RIGHTS (continued)

In closing, we wish to re-emphasize a point made in our recent meeting with you. The length of this letter and the specificity of some of the suggestions contained herein in no way should be taken as criticism of the fine work of the Title IX Advisory Committee. The Arizona Department of Education should be commended for the steps that it has taken, such as the publication of the Self-Evaluation Guidelines, to help local school districts effect rapid compliance with Title IX. We only hope that this letter will be helpful to you as we work cooperatively toward our mutual goal, equal educational opportunity for all.